

126-11-BZ
CEQR #12-BSA-017M

APPLICANT – Greenberg Traurig, LLP by Jay A. Segal, Esq., for 87 Chambers LLC and IBC Chambers LLC, owners.

SUBJECT – Application August 19, 2011 – Variance (§72-21) to allow for the construction of a new mixed use building, contrary to lot coverage and rear yard equivalent (§§23-145 and 23-532) and accessory off-street parking regulations (§13-00). C6-3A/Tribeca Special District

PREMISES AFFECTED – 87-89 Chambers Street, midblock bounded by Chambers Street, Church Street, Reade Street and Broadway, Block 149, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Jay Segal.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez

Negative:.....5

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated August 16, 2011, acting on Department of Buildings Application No. 120571194, reads in pertinent part:

1. ZR 23-145. Proposed building lot coverage exceeds maximum percentage allowed under ZR 23-145 (proposed 84% > allowed 70%).
2. ZR 23-532. An open space with a minimum depth of 60 feet, midway (or within 5 feet of being midway) between the two street lines is required.
3. ZR 13-12. Proposed off-street parking spaces exceed the amount permitted under ZR 13-12 which only permitted 8 parking spaces; and

WHEREAS, this is an application under ZR § 72-21, to permit, in a C6-3A zoning district within the Tribeca South Historic District and the Special Tribeca Mixed Use District, construction of an eight-story residential building with 36 dwelling units and ground floor retail use, and 11 accessory off-street parking spaces, which does not comply with the zoning regulations related to lot coverage, rear yard equivalent and parking, contrary to ZR §§ 23-145, 23-532 and 13-12; and

WHEREAS, a public hearing was held on this application on October 25, 2011, after due notice by publication in the *City Record*, and then to decision on November 22, 2011; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Manhattan, recommends approval of the application; and

WHEREAS, the subject premises is located on a through lot with frontage on Chambers Street and Reade Street, between Broadway and Church Street, in a C6-3A zoning district within the Tribeca South Historic District and the Special Tribeca Mixed Use District; and

WHEREAS, the site has 49’-4” of frontage on Chambers Street and 49’-4” of frontage on Reade Street, a depth of 151’-1”, and a total lot area of 7,459 sq. ft.; and

WHEREAS, the applicant states that the subject site was previously occupied by a five-story mixed-use building which partially collapsed as a result of construction on the adjacent lot to the west of the site; the remaining portion of the former building was subsequently demolished by order of the Department of Buildings; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct an eight-story, 36-unit residential building with commercial use at the cellar and ground floor, and 11 accessory off-street parking spaces located in the cellar; and

WHEREAS, the proposed building will have the following complying parameters: a residential floor area of 40,997 sq. ft. (5.5 FAR), a commercial floor area of 3,871 sq. ft. (0.52 FAR), a total floor area of 44,868 sq. ft. (6.02 FAR), a wall height of 72’-2”, a total height of 87’-8”, and a 15’-0” setback from Chambers Street and Reade Street above the seventh floor; and

WHEREAS, however, the proposed building will have the following non-compliances: lot coverage of 84 percent (the maximum permitted lot coverage is 70 percent); an open area measuring 33’-4” by 36’-0” in the rear yard equivalent (an open area with a minimum depth of 60 feet, midway between the two street lines upon which the through lot fronts is required for the rear yard equivalent); and 11 accessory off-street parking spaces (the maximum permitted number of accessory off-street parking spaces is eight); and

WHEREAS, because relief from the bulk requirements of the underlying zoning district is necessary, the applicant requests the subject variance; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with the underlying district regulations: (1) the site is a vacant through lot with a shallow depth; and (2) the building configuration is constricted by the site’s location in both the Tribeca South Historic District and the Special Tribeca Mixed Use District; and

WHEREAS, the applicant states that the subject through lot is vacant and has a shallow depth of 151’-1”; and

WHEREAS, as to the uniqueness of the site’s 151’-1” depth, the applicant submitted an analysis of the 14 blocks surrounding the site, which reflects that the average block width in the vicinity of the site is 171 feet; and

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WHEREAS, the block study submitted by the applicant further reflects that the subject site is located on one of only two blocks in the surrounding area with an average width of less than 152 feet, and that the majority of blocks in the study area have widths ranging between 175 feet and 179 feet; and

WHEREAS, the Board notes that the street wall regulations under ZR § 111-20 for the Special Tribeca Mixed Use District and the requirements of the Tribeca South Historic District necessitate that any development on the site provide a street wall located along the street line on both the Chambers Street and Reade Street frontages; and

WHEREAS, the applicant submitted plans which reflect that, due to the constraints on the zoning lot, a complying development would have to be divided into two street wall components in order to comply with the required 60-ft. rear yard equivalent that must be located in the center of the lot; and

WHEREAS, the plans submitted by the applicant further reflect that a complying building on the subject lot would result in essentially two buildings with a shared common ground floor and lobby and two elevator service cores; and

WHEREAS, the Board notes that, because the lot is shallow at 151'-1", the two building components in a complying scenario would have a depth of only 45'-6" each, and a floor plate of approximately 2,250 sq. ft. at the base, with the floor plate of the upper floors further reduced; as a result, a complying building would have a maximum floor area of 32,736 sq. ft. (4.39 FAR), significantly less than the permitted FAR of 7.52; and

WHEREAS, the Board further notes that the effect of the small floor plate and the service core create building inefficiencies that reduce the amount of revenue generating space as compared to more typical through lot sites; and

WHEREAS, in order to address this unique condition, the applicant requests a waiver of the rear yard equivalent and lot coverage regulations; and

WHEREAS, the applicant notes that the proposed building provides a complying inner court that measures 33'-4" by 36'-0", which will provide sufficient light and air to the units in the building; and

WHEREAS, the Board notes that, due to the constraints on the site, even the proposed development requires two building cores and as a result is significantly underdeveloped with a floor area of 48,868 sq. ft. (6.02 FAR), which is far below the permitted FAR of 7.52; and

WHEREAS, in order to compensate for the unused floor area, the applicant requests a parking waiver to allow for three additional accessory parking spaces on the site; and

WHEREAS, as to the uniqueness of the conditions on the subject site, the applicant submitted a survey of lots within a study area bounded by Worth Street, Broadway,

Park Place, and West Broadway; and

WHEREAS, the lot survey submitted by the applicant reflects that, of the 26 through lots in the study area, only three other lots (19 Park Place, 79-81 Chambers Street, and 91 Chambers Street) were "soft" or potential development sites (50 percent or less of the allowable FAR), and of those lots only the subject site is vacant; and

WHEREAS, the applicant represents that the subject site is uniquely constrained as compared to the other underdeveloped through lots in the study area; and

WHEREAS, the applicant states that 19 Park Place is located outside the Tribeca South Historic District and the Special Tribeca Mixed Use District, and as such is not subject to the same street wall continuity provisions and could therefore provide the 60-ft. required rear yard equivalent either at the center of the lot or along the front lot lines; and

WHEREAS, the applicant further states that the other two through lots are located on the subject block, however, 79-81 Chambers Street is part of a larger zoning lot consisting of an interior lot and a corner lot and therefore has multiple options for arranging its floor plates and could allocate some of its unused floor area to other portions of the zoning lot, while 91 Chambers Street (located adjacent to the subject site) obtained a special permit from the City Planning Commission allowing a new residential building which does not have to comply with the rear yard equivalent requirements of ZR § 23-532; and

WHEREAS, based upon the above, the Board finds that the shallow lot dimensions and requirements for street walls located along both street lines are unique physical conditions which, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study that analyzed: (1) a complying eight-story mixed-use building with 8,025 sq. ft. of commercial space at the cellar and first floor, 22 dwelling units, a total floor area of 32,736 sq. ft., and six accessory off-street parking spaces in the cellar; (2) a lesser variance scenario consisting of an eight-story mixed-use building with 5,539 sq. ft. of commercial space at the cellar and first floor, 36 dwelling units, a total floor area of 44,868 sq. ft. and eight accessory off-street parking spaces in the cellar; and (3) the proposed building; and

WHEREAS, at hearing, the Board directed the applicant to revise its lesser variance scenario to reflect that additional cellar space could be devoted to commercial use; and

WHEREAS, in response, the applicant submitted a revised feasibility study with a lesser variance scenario showing an additional 306 sq. ft. of cellar floor space devoted to commercial use; and

WHEREAS, the revised study concluded that the as-of-right and lesser variance scenarios would not realize a reasonable return but that the proposed scenario would

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realize a reasonable return; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that, because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the surrounding area is generally characterized by residential buildings with ground floor retail use and commercial office buildings; and

WHEREAS, the applicant states that almost all of the existing buildings along Chambers Street and Reade Street occupy their entire zoning lot so that providing the proposed inner court rather than a complying rear yard equivalent will not alter the built character of the area; and

WHEREAS, the applicant further states that the proposed building will have the same visible footprint as a complying building when viewed from the street; and

WHEREAS, the Board notes that the proposed building complies with all bulk provisions in the subject zoning district, aside from rear yard equivalent and lot coverage; and

WHEREAS, the applicant represents that the addition of three more parking spaces than would be permitted as-of-right is compatible with the conditions in the surrounding neighborhood; and

WHEREAS, the applicant submitted photographs reflecting that there are no lot line windows on either of the immediately adjacent buildings to the east or west of the site; and

WHEREAS, the applicant represents that the proposal will not affect the historical integrity of the subject property; and

WHEREAS, the applicant submitted a Certificate of Appropriateness from the Landmarks Preservation Commission ("LPC") approving work associated with the proposed construction, dated October 19, 2011; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship herein was not created by the owner or a predecessor in title, but is due to the unique dimensions of the lot; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is due to the unique dimensions of the lot; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Type I Action pursuant to Section 617.4 of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 12BSA017M, dated August 24, 2011; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, in a C6-3A zoning district within the Tribeca South Historic District and the Special Tribeca Mixed Use District, construction of an eight-story residential building with 36 dwelling units and ground floor retail use, and 11 accessory off-street parking spaces, which is contrary to ZR §§ 23-145, 23-532 and 13-12, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 25, 2011" – eight (8) sheets; and *on further condition*:

THAT the following shall be the parameters of the proposed building: a total floor area of 44,868 sq. ft. (6.02 FAR), lot coverage of 84 percent; an inner court measuring 33'-4" by 36'-0"; a street wall height of 72'-2", a total building height of 87'-8", and a maximum of 11 accessory off-street parking spaces, as indicated on the BSA-approved plans;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

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THAT construction shall be substantially completed in accordance with the requirements of ZR § 72-23; and

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only.

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 22, 2011.

**A true copy of resolution adopted by the Board of Standards and Appeals, November 22, 2011.
Printed in Bulletin No. 48, Vol. 96.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.